

Sentence Review Division  
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SENTENCE REVIEW DIVISION  
OF THE SUPREME COURT  
STATE OF MONTANA

AUG 14 2020

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,

Plaintiff,

-vs-

JOHN WILLIAM LUCERO, JR.,

Defendant.

) Cause No. DC-18-1465  
)  
) Yellowstone County District Court  
) Montana Thirteenth Judicial District

) **DECISION**

On June 14, 2019, the Defendant was sentenced as follows: Count I: A commitment to the Department of Corrections for five (5) years, for the offense of Criminal Endangerment, a Felony, in violation of §45-5-207, MCA, to run concurrently with DC-17-0062 and consecutive to DC-19-0205; and Count II: A commitment to the Montana Department of Corrections for a term of twenty-four (24) months, with a consecutive three (3) years suspended, and a fine of \$5,000.00, for the offense of Driving a Motor Vehicle Under the Influence of Alcohol or Drugs, a Felony, in violation of §61-8-401, MCA. The sentence in Count II was ordered to run consecutive to Count I. The Court recommended the Defendant be considered for placement at WATCH. The Defendant was given credit for time spent in pre-trial incarceration as follows: December 2, 2018 through December 13, 2018, July 22, 2019 through August 4, 2019, August 28, 2019 through September 17, 2019, and December 23, 2019 through January 28, 2020.

On August 7, 2020, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by video from Billings, Montana, and was represented by Abigail Rogers, Defense Counsel, who appeared by video from Missoula, Montana. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was

further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed. The Defendant gave a statement.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

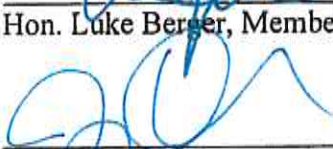
Done in open Court this 7<sup>th</sup> day of August, 2020.

DATED this 14<sup>th</sup> day of August, 2020.

SENTENCE REVIEW DIVISION

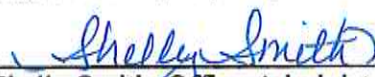
  
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Hon. Dan Wilson, Chairperson

  
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Hon. Luke Berger, Member

  
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Hon. Jessica Fehr, Member

Copies mailed or emailed this 14<sup>th</sup> day of August, 2020, to:

Clerk of District Court – *via email*  
John William Lucero, Jr. #46819, Defendant  
Hon. Michael G. Moses – *via email*  
Abigail Rogers, Defense Counsel – *via email*  
State Office of the Public Defender – *via email*  
Ingrid Rosenquist, Esq. – *via email*

  
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Shelly Smith, Office Administrator